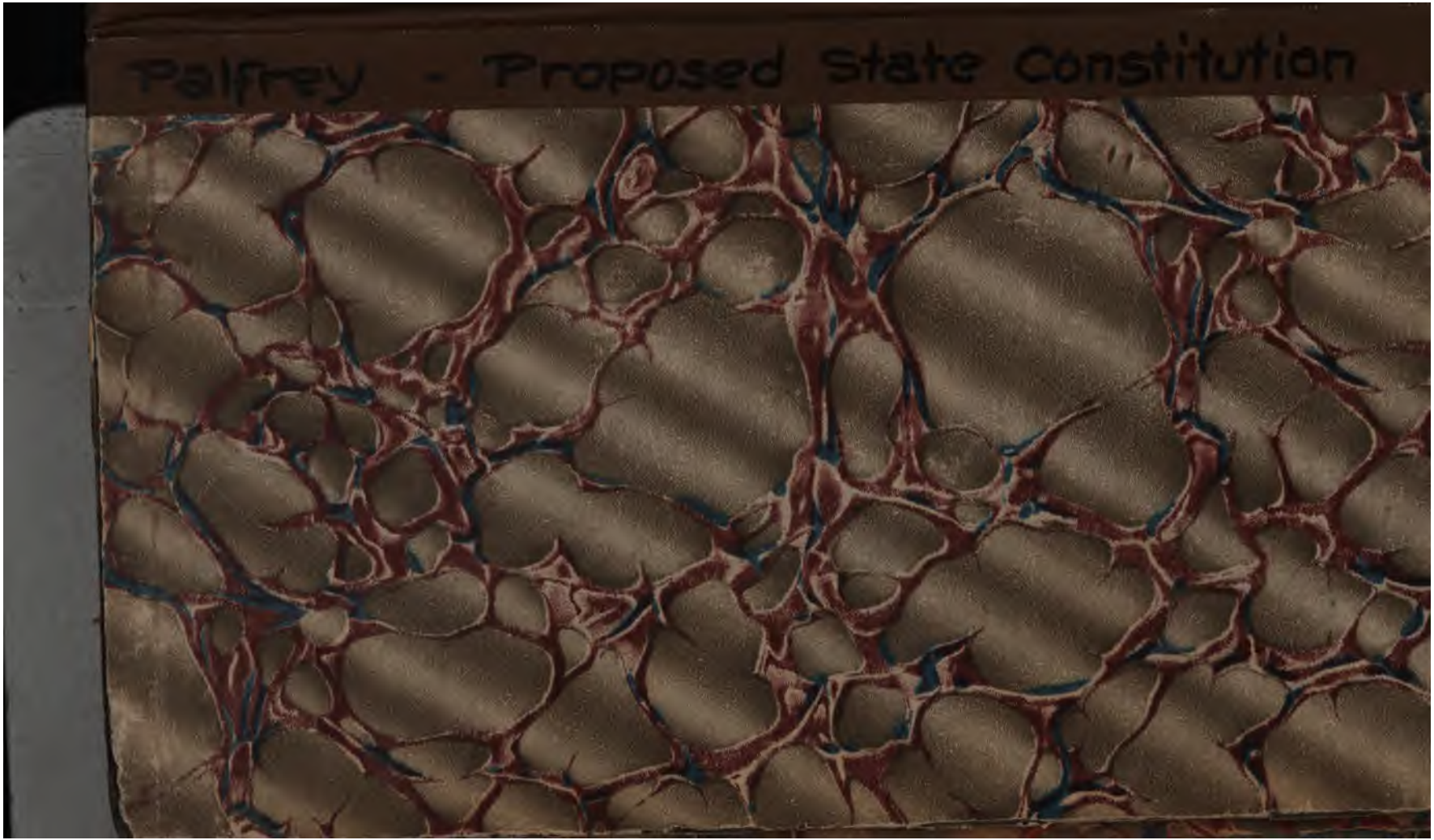
Palfrey - Proposed State Constitution

REMARKS

ON THE

PROPOSED STATE CONSTITUTION.

BY

A FREE-SOILER FROM THE START.

SECOND EDITION.

BOSTON:
CROSBY, NICHOLS, & COMPANY,
111, WASHINGTON STREET.
1853.

ADVERTISEMENT TO THE SECOND EDITION.

I do not flatter myself that my name will add any weight to the argument contained in the following pages. But I observe that their authorship has been alluded to in the newspapers, and I have no reason for not avowing it.

J. G. PALFREY.

CAMBRIDGE, Oct. 27, 1853.

BOSTON:
PRINTED BY JOHN WILSON AND SON,
22, SCHOOL STREET.

REMARKS.

I.

OBJECTS OF A CONSTITUTION. — DIVISION OF POWERS AND OF SUBJECTS.

The objects of a Constitution of Government cannot be better stated than in the following language of the Preamble to the Massachusetts Constitution of 1780: —

"The end of the institution, maintenance, and administration of government is to secure the existence of the body politic; to protect it; and to furnish the individuals who compose it with the power of enjoying, in safety and tranquillity, their natural rights and the blessings of life."

"It is the duty of the people, in framing a Constitution of Government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them."

It concerns the public well-being, that there shall be "an equitable mode of making laws." Therefore, a *Legislative* department is to be constituted, and so constituted as to afford the greatest possible security to the people that the laws shall be equitably made, and that they shall express the people's deliberate will, and be just and salutary.

It concerns the public, that there shall be "an impartial interpretation" of the laws. To this end, there must be a *Judicial* department; and it must be so constituted that the judges may be "as free, impartial, and independent as the lot of humanity will admit."

It concerns the public, that there shall be a "faithful execution" of the laws. To this end, there must be an *Executive* department; and it must be so constituted that the laws shall be promptly and completely carried into effect, according to their true tenor, in every case calling for their intervention.

The principles set forth in these statements will be assumed in the following discussion. Upon these principles it was that, in 1780, that "Frame of Government" was reared for Massachusetts, under which, to

a rare extent, her people have enjoyed the blessing of just and wholesome laws, ably and honestly administered, and efficiently executed.

The Constitution of 1780, recognizing the people's "right to institute government, and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it," made it obligatory on the Legislature of fifteen years later to submit to the people the question of a revision. But the people, after the experiment of that length of time, desired no revision; and none was made. Twenty-five years more passed in the same content, when the separation of Maine, making some of the provisions of the old Constitution impracticable, occasioned a Convention to be called for its revisal.

The time was favorable for disinterested and calm deliberation. It was what was called "the era of good feelings." At no period of our national existence has there been such a lull of party strife. The Convention showed a brilliant array of wise and patriotic men of all parties. Anti-democratic Boston took a part of its delegation from the democratic ranks, and the same was true of other towns. As the result of its labors, the Convention proposed to the people fourteen distinct amendments, of which the people, upon the reference to them in their primary assemblies, — considering and passing upon each on its own merits, as was the proper course, — finally adopted nine, and rejected five.

Among the amendments thus ratified was one for making future specific amendments, by means of a certain action of the Legislature in two successive years, confirmed by a majority of the people. From time to time, in the progress of events and of opinions, some further changes have been deemed desirable, and have accordingly been made by this machinery. But in each and every instance of such action, as well as in the action of the Convention of 1820, single questions have been submitted to the people, to be by them considered and determined, on their own respective merits, separately and independently of all other questions.

This was the fair way of dealing with the people, and of getting a true expression of their sentiments respecting the fundamental law by which they desired to be governed. When no Constitutional government existed, — when a frame of government was to be reared from the foundation, as in 1780, — it was unavoidable to present a Constitution to the people as a whole. But, since the first years of its operation, there never has been a question of any thing more than amending it. There never has been the most insignificant fraction of the people who would have listened to the proposal of sweeping it out of being, and beginning anew. One voter, or one interest, or one party, may like one change; and another, another; and whatever change the majority of the people, on full consideration, desires, ought to be adopted. The people have a right to vote for what they like, and against what they dislike; every citizen has that right; and it has been recognized in all steps which have heretofore been taken to effect Constitutional reforms.

But from this method the course taken by the Constitutional Convention

of the present year is a total and violent departure. Disclaiming any sentiment but one of perfect respect for many of those who voted for this arrangement, among whom I know there were men who never by possibility could intend to do any thing unfair, still I cannot help feeling that that Convention has encroached on my rights, as an humble citizen, in the way in which it presents questions of the last importance for my vote. Its result has the shape of a stupendous piece of log-rolling. We, the people, are compelled to answer, in a single syllable of affirmation or denial, to a mass of diverse and incongruous matters, set forth in some hundred and forty or hundred and fifty articles, new and old. Of the mass of changes proposed, we have no choice but to take the whole or none. Timothy Dexter got off his ill-assorted cargo in the West Indies by insisting that whoever bought a sugar-dipper should take a pair of skates. If, in order to get what we desired, we were only compelled to take what would be of no use to us, our case would be no worse than that of his customers. But we do not fare so well. If we want a provision for the choice of Senators by single districts, the Convention tells us that we shall not be gratified, unless we will vote at the same time that one man in Monroe shall have as much weight and power in the House of Representatives as six men in Deerfield. If a friend of Common Schools desires a Constitutional provision for a large appropriation for their support, he must buy it by consenting to an invasion of the independence of that judicial administration which protects his fireside. Nay, — oddest of all tricks of political legerdemain, — if one favors the system of single districts for the choice of representatives, he must work his way to that system by first voting it down, and establishing the opposite one in its place. I say, it is a grave wrong and affront to the free people of this Commonwealth, to put them in such durance as this. It is usurpation over their right of choice in matters of the most profound concern, to force them into that position that they can do no better than balance things which they approve and things which they condemn against each other, so as to determine whether, on the whole, it is best to bring on themselves the evil for the sake of getting the good, or to go without the good for the sake of escaping the evil. They have a right to the opportunity of voting for nothing but the good, and against nothing but the bad, or what they think so.

It is said that a new draft of the Constitution was preferable, as the accumulation of amendments upon amendments would bring it into an inconvenient shape. The remark has weight. Suppose it to have decisive weight; what follows? That the people should be cornered, as they now are; that a course should be taken so disrespectful to their good sense, and so violative of their right of free action? Not at all. If the reason of convenience was urgent, — and I shall not deny that it was so, — the Convention, after agreeing on the amendments to be proposed to the people, should have made provision for submitting them separately; then adjourned over till such time as admitted of the vote being taken; and then

come together again, and digested into one draft the amendments which were ratified; which last process might have been the work of twenty-four hours, or of three times twenty-four. Why was not this natural, just, and safe course preferred? Because it would have taken time? If there were any party objects which might be served by gaining time, they would present an intelligible reason, but not a reason which the majority of Massachusetts citizens would probably approve. Because it would have cost money? How much would it have cost? Two thousand dollars, or three? And in what proportion may it be feared that two or three, or two or three scores, or two or three hundreds of thousands of dollars, will be outweighed by the mischiefs of erroneous action in a matter of this moment? And what citizen, rich or poor, that has the dullest sense of the interests and the obligations involved, would not rejoice to pay his part of the cost, for the sake of being free to cast his vote with satisfaction, and according to his judgment?

II.

THE SENATE.

From the beginning, the Legislature of Massachusetts, as of all well-constituted republics, has consisted of two branches. The provision for the Senate, or "first branch," in the Constitution of 1780, was, that an aggregate of forty persons should be chosen in districts by a majority of the qualified voters therein. From among these forty, the General Court, when it should convene, was to select nine to compose the Executive Council. Those of the forty who should not be chosen Counsellors, or should not accept that trust, were to constitute the Senate. At first, the counties (except Dukes and Nantucket, which were united) were to be districts for this purpose, and the number of Senators to be voted for was by the Constitution apportioned to the districts respectively. But the Legislature was, from time to time, to district the Commonwealth anew, under the restrictions that the districts were never to be more than forty in number, nor fewer than thirteen; and that no district should be "so large as to entitle the same to choose more than six Senators."

Had this article of the Constitution continued in force, it would have been in the power of the General Court to make that change which by general consent is demanded at the present time. By a simple Legislative act, forty senatorial districts might have been constituted, each to choose a single Senator. But an amendment of the Constitution, made in 1840, recognized the existing county system of senatorial districts, and provided that "the said districts, so established," should "be permanent." This was an unfortunate measure, as time has proved.

The manner of constituting the Senate and the House of Representatives, unsatisfactory as to both branches, for reasons applicable to each branch severally, was the great cause which moved the people to call a Conven-

tion in the present year. As to the Senate, if any district fails to make a choice by a majority of votes, the vacancy must be filled by a joint ballot of the two Houses, from the candidates of the two parties which have thrown the largest number of votes. After the rise of a third, — the Liberty party, and subsequently the Free Soil party, — the inconvenience, and, as things stood, injustice of this arrangement, began to be seriously felt. In 1843, fifteen vacancies in the Senate were filled from a party which was in a minority in the State, by means of a majority of one or two in the House of Representatives, and as many among the Senators chosen by the people; and the same operation decided the choice of Governor, no popular election of that magistrate having been made. Thus the control of both the Executive and Legislative departments was secured that year to the party which had cast 56,200 votes for its gubernatorial candidate, while one other party had cast 54,700, and the other 6500. In constituting the government of the present year, things worked the other way. The Whig party, which had thrown 56,500 votes for its Governor, while the aggregate vote of the other two parties was 69,000, having a majority in the House of Representatives, filled the vacancies in the Senate with its men, and had the control of that body.

This state of things occasioned dissatisfaction in all quarters. It was unjust, inconvenient, irritating, on all accounts undesirable. There were other objections to the existing constitution of the Senate. The districts were too unequal in size; there was no good reason why a lean majority in the district of Dukes and Nantucket, comprising 1400 voters, should send one Senator, while a majority equally meagre in the great district of Suffolk or of Essex should have power to elect six, thus depriving the minority in those districts, however large, of all power.

Such considerations led to a very general desire for that provision which is proposed in the new draft of the Constitution; viz., that the Senators should be chosen by a plurality of votes in forty districts, entitled each to one Senator. How general, how nearly approaching to unanimity, is the desire for this provision, appears from the action of the recent Convention. There were only four votes against the amendment, and not one of these was given by a Whig, the party which has recently found its advantage in the existing state of things. And, in the resolutions passed at its recent Convention for nominating State officers, the obtaining an amendment of the Constitution to secure "the election of the Senate from single districts" is announced as a feature of Whig policy.

Nobody finds fault with this amendment. Everybody wants it. There are, it is true, some serious theoretical objections to the rule of a plurality, which, as distinguished from a majority, is of course the smaller number of the voters. In a strict application of our republican doctrines, it is undoubtedly true that the will of the smaller number has no right to prevail against the will of the larger; and that, if an aggregate of voters, — some for one reason, some for another, — some preferring one man, some another, — choose to say that certain candidates for office shall not be put

into office, even at the risk of the offices remaining unfilled, they have a right to say so, and to have their will prevail. And this has, down to the present time, been the doctrine of Massachusetts. The principle of elections by a plurality, against the will of a majority, has never been recognized by her till within three years, and then only in the case of the election of Electors of President, and of members of Congress. But, on the other hand, government must go on. It will not do to have an anarchy. And whenever experience shows that there is danger of such a want of unanimity among the electors as may prevent the government, some year, from being put into working condition through the operation of the majority principle, it seems unavoidable to adopt that method of choosing, which, among all surely practicable methods, comes nearest to it; that is, that elections should be made by pluralities.

Such experience, and such considerations, appear to have reconciled the people of Massachusetts, of all parties, to the only objection to the proposed amendment, while the weighty reasons which recommend it command well-nigh universal assent. We can have the amendment at once, without buying it by any sacrifice in respect to other things, as soon as the forms can be gone through, provided by the existing Constitution. As there is no opposition, there need be no apprehension of delay. We can adopt the amendment in that manner as an independent proposition, in season to choose our Senators under it in the autumn of 1855. If we adopt it as it stands in the scheme of the late Convention, we may choose our Senators under it in the autumn of 1854. One year is just the difference in point of time. But the difference in another respect is vast. In one way, we get the benefit without a particle of accompanying loss. In the other way, it is offered to us at the expense of sacrifices which are excessive, and beyond its worth; and which, if they were much less than they are, are entirely needless and uncalled for.

The people of Massachusetts have shown themselves wide awake to any attempt to coax them into one measure through the temptation offered by some other. The Constitutional Convention of 1820 was a body singularly free from party influences; but the people's vigilance did not sleep, for that. How tender they were upon this point, how jealous of any semblance of log-rolling, will be evident to whoever will look at their action on the amendments submitted to them by the Convention of 1820. They wanted more freedom in respect to religious and parochial affairs, and the First Article of amendment gave them much more. But they would not take it, coupled with certain provisions of that article which they regarded as continued limitations of the benefit which they sought. They rejected the article, choosing to wait longer for what they wanted, rather than accept it on such terms; and they actually did wait accordingly twelve years, till in 1833 they put their will on the subject into a satisfactory shape. The Fifth Article embraced various important provisions, subsequently adopted; it abolished what had long been the empty form of choosing Counsellors first from the Senate; and it offered the lure

of a Constitutional provision for paying the Representatives from the treasury of the Commonwealth, instead of from that of the towns. But because (though immeasurably less objectionable in this respect than the Constitution now offered) it embraced a variety of provisions, some intended as they thought to force the others through, they voted it down, and took their own time to make the changes they desired, one by one. The Ninth Article made a useful and popular addition to the provisions respecting the tenure of the office of Justice of the Peace; but because it was connected with, and appeared designed to carry through, another provision restraining the liberty of removal by *address*, the people would none of it. The Tenth Article, relating to Harvard College, shared the same fate. It proposed to open the Board of Overseers to ministers of all denominations, — a measure which the people favored, and which was adopted in due time; but because, with this provision, was associated what was construed as a further grant of power, the article failed to be ratified by the popular vote.

The people of Massachusetts are as hard to outwit in 1853, as they were in 1820. They have sense enough to know that when they want to do some duty, or obtain some benefit, it is not necessary to find their way to it through the doing of something which would discredit, or the submitting to something which would harm them. And whoever attempts to put them into straits of this sort cannot reckon on taking any thing by his motion.*

III.

THE HOUSE OF REPRESENTATIVES.

Under the Constitution of 1780, each corporate town with one hundred and fifty ratable polls might elect one representative; each town with three hundred and seventy-five polls, two representatives; and so on, "making two hundred and twenty-five ratable polls, the mean increasing number for every additional representative." As the population of the

* On this subject of the Senate, it is worth remarking, that the new Constitution provides (Chap. II. Art. 3), that the Governor and Council shall count the votes for Senators, "and *ascertain* who shall have received the largest number of votes in each of the several senatorial districts, and the person who has *so* received the largest number of votes in each of said districts *shall be a Senator* for the following political year." If so, what becomes of the other provision (Chap. I. Art. 11), that "each branch shall be the final judge of the elections, returns, and qualifications of its members"? Which is to rule, — Chap. II. Art. 3, or Chap. I. Art. 11? The existing Constitution has no such contradiction. It directs (Chap. I. Sec. II. Art. 3) that the Governor "shall issue his summons to such persons as shall appear to be chosen by a majority of voters, to attend on that day [the day of assembling of the General Court], and *take their seats accordingly;*" the question whether they are truly elected, so as that they "*shall be Senators* for the following political year," being still reserved for examination in the Senate.

Commonwealth increased, this arrangement returned too large a House; too large certainly, for economy; too large, perhaps, for convenient deliberation. There have been Houses, unless my memory is at fault, consisting of more than six hundred members.

The Convention of 1820 in vain proposed a remedy. The main features of its plan were, that each corporate town containing 1200 inhabitants might elect a representative every year; that 2400 inhabitants should be the mean increasing number to entitle a town to additional representatives; and that towns with fewer than 1200 inhabitants should have the privilege of representation every other year, and also in the year of the decennial return of valuation of estates; the mean increasing number to be proportionally increased by the Legislature every tenth year, so as to keep down the House to the number of 275. But these provisions were mixed up with other things in the Fifth Article of Amendment, and the people rejected the whole together. Several years after, they took up the same scheme of representation as a separate question, and in 1840 adopted it with modifications, one of which was that towns with fewer than 1200 inhabitants should elect a representative as many times within ten years, as the number 160 should be contained in the number of its inhabitants. As so established, the provision, with that for successive extensions of the ratio, stands at the present day.

In place of this, the proposed amendment of the recent Convention provides, that every town, however small, shall have a representative six years out of ten; that towns with one thousand inhabitants, and fewer than four thousand, shall have a representative every year; and that, for additional representatives in a town, four thousand inhabitants shall be the mean increasing number. In cities, instead of the choice by general ticket as heretofore, it provides that there shall be a division into districts; no one district to elect more than three representatives.

The existing plan of representation is bad. This is worse. It retains the objectionable features of the old system, and aggravates them.

The plan of representation part of the time and no representation another part, is an utterly indefensible and absurd anomaly in republican government. If the representative were but a medium for drawing through the pay-roll, something for his town from the public chest, there would be some sense in the arrangement of sending him on that errand once, twice, or five times in ten years. But the question is of the right of a town — of a portion of the Commonwealth — to have some share in making the laws that govern it. If a right of that kind exists, it exists for all years, and every year. If it does not exist for the whole time, it exists for no part of the time. The plan of occasional representation is just as reasonable as it would be for a man to make three full meals a day, and then go without eating, in alternate weeks.

The representation of population in the Senate, and of corporations (in other words, of property) in the House, is a reversal of the ancient relations of the two branches. Municipal corporations are, in a just

sense, money corporations. They are created and exist for the protection and management of property, while personal rights and liberties are guarantied by the laws of the Commonwealth. The towns must keep up a police, schools, roads, alms-houses, &c.; but it is the money regulation of these matters that belongs to them, the obligation to use their money for such purposes being imposed on them by the State laws. Under the Constitution proposed, the smaller branch of the Legislature is the popular branch. The popular element is represented in the Senate, chosen on the basis of population; corporations are represented in the House.

The strict republican principle is, that all citizens shall have equal political power; in other words, that they shall have a share of representation in the public councils in proportion to their numbers. The proposed Constitution violates that principle also, and violates it much more seriously than that which it is intended to supersede. The town of Wenham, by the last census, has 1003 inhabitants, and in ten years has five representatives in the General Court. Boston has 138,788 inhabitants, and 440 representatives in ten years. In other words, her representative power, by the existing Constitution, is to that of Wenham as 88 to 1, while her population is as 138 to 1; two men in Wenham having more power than three in Boston. This is a great inequality; and, so far from being remedied by the amended Constitution, it is proposed to be largely increased. By that plan, Wenham will have one representative, and Boston thirty-five, every year; each citizen of Wenham having nearly four times as much political power as a citizen of Boston.

New Ashford, in Berkshire, has 210 inhabitants, and sends two representatives in ten years. Pittsfield, in the same county, has 6032 inhabitants, and sends twenty representatives in the same time. That is, the political power of a voter in New Ashford is more than three times that of a voter in Pittsfield. So it stands at present. According to the tables in the Secretary's Report of February 3, 1852 (Senate Document of 1852, No. 18), New Ashford, keeping up its recent ratio of decrease in population, will contain but 193 inhabitants in 1860; but it will then, according to the proposed Constitution, send six representatives in ten years; while Pittsfield, with 8927 inhabitants, will (by the mean increasing ratio of that time) be entitled only to twenty. The population of Pittsfield will be to that of New Ashford as 277 to 6, while her representative weight will be to that of New Ashford as 20 to 6. A New Ashford voter will have nearly fourteen times as much weight in the House of Representatives as a voter in Pittsfield. His present excess will be more than quadrupled.

It is alarming to think, to what this may grow. It looks like a rapid movement towards the rotten borough system. When thirty or forty voters in New Ashford can send a representative to the General Court six years out of ten, a franchise there will presently have a money value. Its last valuation was $99,966; that of Mount Washington, $93,402; of Clarksburg, $94,835; of Monroe, $60,538. There are not a few men in

Boston who could each buy the property of ten such towns; and if they could command votes in the Legislature by being landlords, they would have a motive to do so. These four towns, with an aggregate population of 1049 in the year 1860,* will, by the proposed arrangement, be entitled to send twenty-four representatives to the General Court in ten years, instead of the eight that they now send. The population of all of them has decreased and is decreasing from one census to another; but the prodigious and increased comparative power which by the proposed Constitution is to be conferred is, by the same Constitution, never to be less than it is now; while that of all towns entitled to send two or more representatives every year is, by the same Constitution, to be abridged at every new census. How does the case of such small corporations as have been mentioned differ from that of Gatton and Old Sarum? New Ashford has only one-tenth of the number of inhabitants that constituted the rule by which the English Reform Bill of 1831 disfranchised sixty boroughs at a blow. In 1843, the single vote of the representative from Montgomery, a town of 650 inhabitants, was enough to determine the character of the government for the year, including the Senate and the Executive. Hull, I think, has not generally thrown more than twelve or fourteen votes. Call the average twenty. A majority of twenty is eleven. At this rate, by the proposed Constitution, eleven votes will give a seat in the House six years out of ten. It is needless to pursue the reflections which such facts suggest.

The right of the small towns to a representative in each, or each alternate year, is, let it be remembered, the only part of the system which is to remain stationary, while (by the application of the mean increasing number, which is to be enlarged with the enlarging population of the Commonwealth) the representative power of the inhabitants of all but that least populous class of towns is to be continually lessened. The proportion is to be changed every ten years in favor of the towns of the smallest size (those which have now less than 4000 inhabitants), and against all others; thus vastly aggravating an evil and injustice which must be owned partially to exist in the present system. That, by the proposed Constitution, they will be thus aggravated, is just as clear and certain as the evidence of figures. When we hear it said that the proposed Constitution is better than the present in this respect, it is not that

* I have referred to a census in 1860, &c., so that the figures might be verified by Mr. Secretary Walker's tables, as was done in the Convention, in argument in favor of the project (*Official Report, &c.* Vol. II. p. 95). By the proposed Constitution, the decennial census is to be taken in 1855, 1865, &c., instead of 1860, 1870, &c. But the operation is the same; viz. that, while the towns which are to send six or ten representatives in ten years are never to lose any of their power, the relative power of all the other towns is to be continually decreasing from census to census, with the increase of the mean numerical ratio; in other words, that the relative representative power of the small towns, already enormous, is to be increased with each successive census.

there is any disagreement about such facts as have now been brought to view. There can be none. It is a disagreement about *what is better*, and what is worse. The present Constitution operates to diminish, from time to time, the number of the towns entitled to send two or more representatives every year, and to class them with the towns having an inferior privilege. The proposed Constitution secures to a larger number of towns a frequent or annual representation; and this is what by some is called an improvement. But it does so by a greatly increased violation of the principle of equal representation; and this is what others call the reverse of an improvement.

I do not enter into the calculations which show how small a minority of the people may, under the proposed system, command the House of Representatives. The people are ciphering over these sums pretty busily, and getting more and more astonished at the answers they work out. There is another view of the subject which deserves a passing notice.

The doctrine of the Revolution was, that taxation and representation must go together. It was founded on the much more ancient English doctrine, that nobody but the subject, directly or by his representative, had a right to dispose of the subject's money; and that then only would a proper economy be practised, when the grantors of a tax were also the payers. Accordingly, a tax in England is a *grant* of the Commons to the Crown or Executive; and all money-bills must originate in the Lower House, — a provision which we have copied.

In our Constitution of 1780, there were arrangements for the basis of the Senate, specially designed to protect property. The number of Senators to which the districts respectively were entitled, had reference to "the proportion of the public taxes paid by the said districts;" and this discrimination in favor of property was not disturbed by the proposed amendments of the Convention of 1820. It was, however, abolished by the amendment which went into effect in 1840; and the Senate, like the House, was placed upon a numerical basis.

But, if there ought to be no discrimination in favor of property, is it for the public good that there should be a discrimination against it? Are rich men or rich towns not only to have no more discretion in the public disposal of their own means than others who have little or nothing to bestow, but are they to have much less discretion in the matter? Are the possessors of the money which the public wants, to have much the least voice — man for man, and town for town — in the disposal of it? Is this justice? Is it policy?

The smaller towns are the poorer towns; poorer, relatively to their population. But the smaller towns, by the proposed Constitution, are to have at once a much greater power over the public purse than the large towns, relatively to their population; and that larger power is still further to be increased at each successive census. For instance: the valuation of New Bedford in 1850 was $14,489,266; that of Hull was $117,823. New Bedford, by the proposed Constitution, would have fifty representatives

in ten years; Hull would have six. New Bedford has 16,441 inhabitants; Hull has 262. A citizen of Hull has more than six times as much power in taxing New Bedford as belongs to a citizen of New Bedford; and this while the average property to be levied upon, is in New Bedford more than $880 to a man, while in Hull it is less than $450.

Nor is even this the widest departure in the new plan from the time-hallowed principle that representation and taxation go together. From the beginning of things, it has been the rule in Massachusetts that the payment of some tax (the lowest tax being only a fraction of a dollar) should be held as a condition of the right to vote. All this is abolished, as to voting in State elections, under the first article of Chapter IX. of the proposed Constitution. A man who pays nothing to the public is to have as much power (or, as in cases like that above mentioned, much more power) in levying contributions for the public service, as those whose contribution is to be largest. His own pocket is not to be at all touched, when he makes any amount of draft upon his neighbor's earnings. The Convention did not hold this to be equitable or politic in respect to voters on town-affairs. They considered the strong disinclination that would be felt by the industrious people of the towns to having their money voted away in town-meeting by those who made no contribution whatever to the common stock. And therefore they refused to make that application of the principle. But they propose it for our adoption in respect to the election of those who are to administer upon the people's money in the General Court.

So the case stands thus. Formerly there was in the Senate a discrimination in favor of property, while the basis of the House of Representatives was population. The discrimination in favor of property was done away with, some years ago, for the Senate; while, in the House, a strong discrimination against property is to be rendered permanent by the new Constitution, and to be extended every ten years.

The only way to attain a near approach to an equality of right in representation, is by a district system, dividing the large towns and aggregating the small. The small towns do not like to be debarred from representation in their corporate capacity; and their objection has been yielded to, to the utter abandonment of the principle of equality. On the other hand, the proposed Constitution districts the cities, depriving them of their privilege, hitherto enjoyed, of representation as corporations. Is this equitable? If the new system be good for one party, is it not good for the other?

By an article of the proposed Constitution (Chap. XIV. Art. 4), it is provided that the Legislature of the year 1856 shall district the Commonwealth for Representatives as well as Senators, and submit their plan to the people, to become a part of the Constitution if confirmed by the popular vote. As this article cannot prevail except along with the rest of the Constitution, it is much relied upon to propitiate to the instrument those who are the most opposed to that scheme of representation which it

proposes for immediate adoption: to them the hope is held out of getting through it ultimately to the district system. I cannot but look upon that hope as utterly illusory. It is true that the provision makes it incumbent upon the Legislature of 1856 to pass a law presenting that scheme for the people's action. But the only way to pass it, is for the two Houses to agree. And what power can compel them to agree upon an act, which, from its nature, must go into much detail, involving a great variety of compromises, and into which has been introduced the option of "single or double districts," as if purposely for an element of discord? Into the House of Representatives of 1856, towns having less than one-third of the population of the Commonwealth may throw a majority of fifty. Is it to be expected that a House so composed will pass such a districting bill as will have a fair chance for concurrence by the Senate, based, as that body is to be, on population? Reasoning on the common principles of human nature, is there much reason for confidence that the project will not be strangled in such hands? And if, in any way, the system of districting falls through, that year, then the old system remains as the permanent arrangement; for the duty of proposing the district system to the people is limited by the Article to the Legislature *of the year* 1856.

Again: a person may be in favor of a districting system, and yet not of just such a one as the Article in question describes, and which alone it provides for. That Article directs that the districts shall be "as nearly equal as may be in the number of qualified voters resident in each," making the very material substitution of *qualified voters* for inhabitants. Moreover, a person may be in favor of the district system, without wishing to apply its principles with so much rigor as is proposed, where the districts are required to be "as nearly equal as may be." Mr. Dana made an exceedingly able speech in the Convention against the district system. Many, of whom I profess to be one, are much impressed by his remarks on the necessity of protecting the Commonwealth against certain dangerous influences in the great cities, without, however, being able to see that we should be justified in giving such an immense preponderance of power to the small towns, as is proposed by the new Constitution. We are of the opinion that in those crowded marts and thoroughfares an unpatriotic and hurtful policy has prevailed and prevails, and too probably will continue to prevail, by force of essential elements in the constitution of society in such places. At all events, such local accumulations of political power and influence as are involved in the strictly equal representation of dense masses of population, even when they should be broken up into city districts, seem to us not consistent with the public security. In his reply to Mr. Dana, Mr. Hillard very properly said, that he was willing "to yield something of the numerical proportion to which Boston was entitled;" and admitted that he should not expect Boston, with about a hundred and forty-four times as many inhabitants as Hatfield, and, at the same time, "with its larger proportion of the worthless classes, and larger proportion of the dangerous classes," to be clothed

with a hundred and forty-four times as much representative power as Hatfield. A district system which should do this, is practically out of the question. Yet precisely such a district system as should do this — that system, and no other — is, by the proposed Constitution, to be offered to the people by the Legislature of 1856. Of course, it would be defeated, and there would be an end of the scheme of districting, so far as it has a semblance of being befriended by a contingent provision of the proposed Constitution. It is no essential feature of a district system, that the districts should be strictly "as nearly equal as may be," if the public good, as made manifest in other considerations, should require some partial departure from that principle. Our first Constitution gave one Representative to every 150 ratable polls, but required 375 for two; and a discrimination of this nature, with a different ratio, still prevails. A similar sliding scale, with a ratio of increase not excessive, but sufficient for the common protection, might be applied to the great masses of population as a feature of a districting system. But the prospective Constitutional provision excludes every such arrangement. It presents the district system in what is very generally regarded as an ineligible form, and permits its adoption in no other. It is so worded as to ensure defeat.

We constantly hear it said, that, under the present system, some of the small towns are "disfranchised," and more and more will be every ten years. Nothing can be further from the truth. The small towns may, every one of them, vote for a Representative every year under the existing Constitution. They have only — enough of them to make a certain aggregate of population — to associate themselves for that purpose, and they never need be without their Representative. If they are ever "disfranchised," it is by a voluntary waiver of a right which the existing Constitution secures to them.

Nor will the proposed Constitution do away with this "disfranchisement." Still every town of less than 1000 inhabitants will be "disfranchised" four years in ten. While, should the present Constitution continue in force, the evil which is complained of, as being created by it, would have a tendency to repair itself. It may well be supposed, that one reason why towns too small to be represented every year have not availed themselves, to a greater extent, of that Constitutional provision which allows them to associate together for the annual election of a Representative, is, that, being as yet few in number, they are comparatively remote and scattered. As the number increases with the decennial increase of the mean ratio, there will of course be more of them contiguous to each other; and, as the inconvenience of association is lessened by this cause, it is natural to suppose that the dislike to it may abate, and thus what is virtually a voluntary district system be gradually introduced.

I do not defend the representative system of the present Constitution. Far from it. It is bad. But I will not, because it is bad, vote to substitute another, which is worse than itself in its worst features; and when, still further, in order to make the substitution, I must vote at the same

time for other provisions very important in my view, and very mischievous. I believe a districting system for the choice of Representatives is, on the whole, what justice and expediency require. But I do not esteem that system, which alone is contemplated in the prospective provision of the amended Constitution, to be either a correct or a practicable one; if ever so eligible, I have nothing which can be called a reasonable hope of attaining it in the manner proposed; and, if entirely eligible and attainable in the manner proposed, I could not purchase it at the price which is demanded, of assent to other provisions of the same instrument.

The true course under such circumstances seems to be, to refuse to help in making things worse, and await a favorable time for making them better. Just as no treaty between nations is a good one, which leaves to either party occasions for future discontent and disturbance, so no Constitution can be a good one, which bears with oppressive weight on a large portion of the people, especially on the major number of them. A temporary majority may perhaps carry this Constitution. But majorities change, and that Constitution which is too unequal in its distributions of power, cannot give permanent satisfaction or tranquillity. There is too much reason to fear, that, smarting under such injustice, a majority may some time feel entitled to right itself, even by disturbances, such as, not long ago, were witnessed in Rhode Island.

IV.

THE JUDICIARY.

Hitherto the tenure of the judicial office in Massachusetts has been for good behaviour. "It is the right of every citizen," says Article XXIX. of the Bill of Rights of 1780, unaltered till now, "to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people and of every citizen, that the judges of the Supreme Judicial Court should hold their offices as long as they behave themselves well," &c. This the Convention of 1853 proposes to alter so as to read in the following manner: — "It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people and of every citizen, that the judges of the Supreme Judicial Court should hold their offices *by tenures established by the Constitution*," &c. And then it goes on to provide in Chaper VIII. that judges of the Supreme Court hereafter to be appointed, and also judges of the Court of Common Pleas, as long as the law establishing that Court remains in force, shall hold their offices for ten years; at the end of which time, the Governor and Council may re-appoint or supersede them at pleasure.

This measure has undeniably taken the people by surprise. In the speeches and other appeals of the different parties, while the measure of holding a Convention was pending, no plan of the kind was so much as

suggested. Neither party expressed an intention to make any change in the judiciary system. By some of the leading men who had promoted the Convention, it was admitted, in the debate upon the subject in that body, that, if a design to make the judiciary elective had been avowed, the proposal to hold a Convention would probably not have been sustained by the people; and, in respect to any change in the term of judicial service, or the manner of appointment, an equally cautious silence was preserved.

There is no more peremptory lesson of history, no better established doctrine of political science, than this; that, for free governments to be sustained and do their office, it is essential that the three departments be kept distinct. The executive must not be at the mercy of the judicial or legislative; nor the legislative at that of the judicial or executive; nor the judicial at that of the executive or legislative.

But this great lesson of the ages it is now proposed so far to set aside. There are six judges of the Supreme Court. Oftener than once in two years, a vacancy on that bench is to be created by the new Constitution. Reckoning deaths and resignations, vacancies will occur nearer to once in every year than to once in two years. Not much less frequently than every year, it is to be in the power of the Governor, or of the Governor's party friends, to say to one-sixth of the Court, that, unless they decide questions so as to suit the powers that be, one-sixth of the Court shall presently be displaced. Every succeeding year or two years will bring up another to pass the same ordeal. What independence, what dignity, what weight, can there be in the character of a judge under such circumstances?

A judge of the Supreme Court has come to be fifty or sixty years old. He has a family dependent on his earnings. He has been away from the bar ten or twenty years, and has changed his habits, and parted from his clients. His period of official service is before long to expire. It is presently to be in the Governor's power to continue to him the means of comfortable living, or reduce him to poverty and shifts. On the common principles of human nature, how is it possible to say that a judge so situated is not under a dangerous influence so to act as that he may stand well with the Governor and the Governor's backers? Take such a case as that of the old Charlestown Bridge. Such cases may occur over and over again. On that occasion, strong feelings and interests, on the part of great numbers, were arrayed against what others considered to be private rights. No matter, for the present argument, which side was right and which was wrong. It was doubtless for the interest of the public, in the long run, that justice should be done, wherever it might strike. Yet who can say, that, supposing the weaker party in that instance to have had justice on their side, they would have had a fair chance of getting it, if, within some greater or less fraction of ten years, every judge of that court was to retain or lose his place according to the chances of a Governor's election? There is no more appropriate business of courts of justice

than to protect the rights of the weak and few against the usurpations the strong and many; and it is impossible for them to do this unless they are strong and independent themselves. Every man of a domineering majority may in time come to want that protection for himself, through an independent judiciary, which, in the pride and insolence of his party strength, he grudged to others. Who would like to see the judge who is to pass between him and his neighbor, dancing attendance in the Governor's anti-chamber as the expiration of his ten years draws nigh, and watching the signs of the times to know on what terms a re-nomination may be had? Who wants to see the judges calculating the chances of the political parties as a November election approaches, and musing on the prospect of being provided for or impoverished according as they decide questions before them this way or that? For our judges we must take men, imperfect men: that we cannot help. The most we can do is to take the best bonds for their integrity which we can get; first, from the upright character which we discern in them; secondly, from the safe and independent position in which we place them. Who can pretend, that, if tried by a judge liable to be retained or displaced at a not distant time, according as he decides one or another case, he enjoys his right "to be tried by judges as free, impartial, and independent as the lot of humanity will admit"? The advocates of the proposed Constitution talk of restricting the patronage of the Executive. But what a tremendous extension of its patronage, is that which lays the judiciary at its feet!

There is no question, in any quarter, about the right of the people to appoint and remove judges, as well as other magistrates, at their pleasure. The only question is, how can the people exercise their undisputed power in this respect, so as to secure for themselves the most faithful and able discharge of the duties of the judicial office?

What sort of men is it for the public interest, and for every individual's interest, that we should have for judges? Without doubt, men of talents, learning, and character; and a rare succession of such men we have been fortunate enough to secure under the old system; though, from the very moderate income of judges, compared with that of eminent practitioners at the bar, it has often been found difficult to induce the proper man to take a vacant seat upon the bench. The great attractions of the place, which have induced the best men to accept it, to the sacrifice of other considerations, have been its independence, security, and seclusion from party clamor. These attractions we propose now to divest it of; and, when they are taken away, how can we hope any longer to enlist the highest character and talent in judicial service? Nothing in the future is more certain, than that we shall thenceforward see upon the bench men altogether inferior to those who have heretofore adorned it. The men whom we most want for the place, will not look at it under such circumstances; there is no reason why they should, and all personal reasons to the contrary; and it will sink more and more into the condition of a prize for active partisans, claiming it as their share of the spoils after some hotly

contested election. The court will become inferior to the bar, a state of things in which there can be no safe administration of the law; uneasiness, distrust, discontent, will take the place of the confidence which has hitherto been felt in the intelligence and uprightness of the tribunals; the judicial decisions of Massachusetts will sink everywhere from the high estimation in which they have been held. In short, it is simply impossible, that, with the proposed change, our administration of justice should be as able and impartial as it has been.

But it is argued that we ought to have some method of relief from incompetent and unfaithful judges. No doubt we ought; and we have it already in perfection. Passing by the process of impeachment, nothing can be easier nor more summary than that procedure provided by the present Constitution, of removal by address of the two Houses to the Governor. It is a prompt, efficient, infallible remedy for every case that can be supposed, of general dissatisfaction. In its practical operation, it goes far to ensure the object of delicacy, professed to be aimed at by the proposed new provision; viz., the retirement "to private life, without violence or ungracious circumstances, and scarcely with observation." For it can hardly happen that when the public dissatisfaction becomes so manifest as to threaten the removal of a judge by address, his own feelings, or the interference of his friends, will not lead him to anticipate that step by a voluntary resignation. If it could ever happen, it would be only in the case of a judge who was so confident of the correctness of his course that he would stand by it to the last, defy the consequences, and, by giving the greatest possible solemnity and publicity to the issue made, throw himself on the judgment of posterity. And that is just the kind of judge that it concerns the public not to part with, on any terms.

Some of the judicial offices the new Constitution proposes to fill by local elections once in three years, instead of by appointment by the Commonwealth's authority, as heretofore. Such are the offices of Judge of Probate, Police Justices, and Trial Justices (Chap. VII. Art. 4; VIII. Art. 7, 8).

The objections to this innovation are very weighty. In rich counties, where large sums of money pass under the jurisdiction of Judges of Probate every year, including not only executors' and administrators', but guardians' and trustees' accounts, they will have been diligent if they have learned their business well at the end of the first three years. Change them every three years (which is but too likely to come to pass if the places are thrown into the party scramble), and we shall never have a first-rate Judge of Probate for any fraction of the time. Judges of Probate stand between widows and orphans on the one hand, and those who have the custody of their estates on the other. Widows and orphans are protected by the correct accounts and sufficient bonds of executors, guardians, and trustees. The Judge of Probate has the cognizance and regulation of those accounts and bonds. Guardians and trustees are often of that class of solid men, who have great weight in party operations. When I want

the accounts of an estate in which I am interested strictly sifted, and the bonds put properly high, it will be a subject of uneasiness and regret to me if the Judge of Probate is presently to be elected in a county in which my trustees are influential men in the Conventions. There was lately in Norfolk a question of guardianship, which excited strong and general interest. I know nothing of its circumstances, except that one, at least, of the parties to the discussion was a gentleman of deservedly great political influence in the county. It is a thing infinitely to be deprecated, that the administration of justice in so interesting a department should be exposed to such a peril as would arise from the influence of interested parties over local elections.

So of Commissioners of Insolvency, a class of officers exercising very important quasi-judicial functions. They, too, are to be elected in the respective counties once in three years (Chap. VII. Art. 4). Among the many classes of citizens, there is probably no one, which, in proportion to its numbers, furnishes more of the active politicians, or acts a busier or more influential part in the primary and nominating conventions, than that of insolvents. Is it for the interest of the public at large that the nomination of these officers should be liable to be in their hands? Will a person who holds an insolvent's note think that this arrangement will tend to increase its value, or the contrary?

The administration of justice ought to be uniform throughout the Commonwealth. One way of securing this, is to have the administrators of justice, in every part of the jurisdiction, appointed, not by any local authority, but by the authority of the Commonwealth. And this is the method which has been hitherto strictly observed, but which it is now proposed to change. Cities elect their Mayors and Aldermen, because Mayors and Aldermen are to carry into effect the charter provisions and by-laws of the cities respectively. But Massachusetts as yet appoints judicial officers in all her cities, because her laws are to have effect alike in all those cities. It is her business that those magistrates are to do, and not that of the municipal corporations. If I am a citizen of Roxbury in Norfolk, it interests me about as much to have criminal law rightly administered in Boston in Suffolk, as it interests a citizen of Boston itself. At all events, Massachusetts, which is a body politic, cannot wisely or safely leave her cities to their own judicial administration, any more than she can leave them to their own legislation. Think of Boston choosing a Police Justice on an average once a year, and the pro and anti-Maine law parties, the pro and anti-lottery, the pro and anti-hack-regulation parties, and so on, which would be struggling for the possession of him. The Recorder's Court in the city of New York is a criminal court. He sits with two of the Aldermen, chosen at the annual charter election. If report says true, a serviceable partisan of the Aldermen who made two-thirds of the Court, having been convicted recently on a criminal charge, the Aldermen prevented his being sentenced, by absenting themselves from the bench. It is impossible to be at the trouble of ascer-

taining the truth of such a story. But it seems too probable not to be true. At all events, the general likelihood of a perversion of justice under the like circumstances is so great, and so serious, as to make the proposed change appear to the last degree ineligible. Hitherto, in every part of her dominion, Massachusetts has administered her laws by her own agents. Her people have meant to hold their whip over evil-doers, just the same in Suffolk as in Berkshire. She will consult for her security and good order as little as for her dignity, when, in so important a department as that of the jurisdiction of Police and Trial Justices, she exposes her judicial administration to the influence of local interests and excitements.

In respect to the Clerks of Courts, what interest have the public? Clearly this very material one; that the business of the courts, so far as depends on the recording and corresponding officers, shall be promptly, diligently, and correctly done. How may that interest best be secured? Apparently by the method, hitherto pursued, of allowing the courts to appoint and remove their own clerks, and so to hold them to a direct and strict accountability. If a clerk is incompetent or remiss, we, the people, are in no position to know of it, except at second-hand; and then we may be doubtful or divided about it. The court know it at once, because it interferes with the regular going of their machinery. Their personal convenience and credit are deeply concerned in having the business of the clerk's office well and thoroughly done; and they are the persons who will immediately and certainly know whether it is so done. It is evidently and eminently for the public advantage, then, that they should be charged with seeing it done, and accordingly with designating the persons to do it. To make these offices elective in the counties as is now proposed (Chap. VII. Art. 4), would be just as much out of the safe and regular course of business, as it would be for the Secretary of the Senate, or the Clerk of the House, to be chosen by general ticket, or for the stockholders in a bank to appoint and remove the book-keepers and tellers. To subject the clerkships to election in the counties, is to throw so many more prizes into the heap to be fought for by county demagogues; but it is not a measure for the advantage of us who have, or may have, business in the courts.

V.

THE EXECUTIVE.

In respect to the Chief Executive, the new Constitution quietly makes one change of no inconsiderable moment, though it is so put away in another place, and wrapped up in a mass of other things, without the usual *italics* to call attention to it, that it may escape observation. In case of a failure of popular election of the Governor or Lieutenant-Governor, the old Constitution provides that the House of Representatives shall select two names from the *four* having the largest number of

votes; from which two, the Senate is to designate one for the vacant office. In other words, the old Constitution allows such a latitude of choice, as that there may be four parties entitled to have their claims considered in this kind of election, and to have their share in the compromise which such a case may make necessary. The new Constitution changes this, and provides (Chap. IX. Art. 5) that, for the choice of Governor, Lieutenant-Governor, and other high Executive officers, *three* parties, and no more, shall henceforward be recognized in Massachusetts. We have at present, in Massachusetts, three large and well-organized parties; so that the proposed monopoly in three parties may seem to have a suitableness to the immediate state of things, and to the satisfaction of the managers of those parties. But perhaps there is, or may be, some other party which may aspire to be fourth in numbers; as some Old Line Democratic party, some Maine Law party, or some Hoosac Tunnel party. And would such a party feel that justice was done it by the proposed exclusion? The fourth party might be nearly equal in numbers to the third, and it might be more in unison than the third with the first, or with the second. Would not such a state of things, should it occur, create a wish that the old Constitutional provision was still in force, with its larger liberty of choice? The proposed provision looks like a blow aimed in the dark at the existence of a fourth party.

When the first case occurred of the succession of a Vice-President to the Supreme Magistracy of the Union, and the Cabinet wished to get hold of Mr. Tyler by his weak side, they caused him to call himself, and be called, "President of the United States." This hardly seemed accordant with the language of the Constitution. But it pleased at least one person, and it harmed nobody; so it met with general acquiescence, and went into precedent. In respect to the Lieutenant-Governor of Massachusetts, the old Constitution provides, that, in case of the vacancy of the Governor's chair, "the Lieutenant-Governor for the time being shall, during such vacancy, perform all the duties incumbent upon the Governor," &c.; and, accordingly, Gill, Lincoln, Armstrong, &c., styled themselves "Lieutenant-Governor and Commander in Chief." The proposed Constitution provides that, "whenever the chair of the Governor shall be vacant, &c., the Lieutenant-Governor *shall be Governor of the Commonwealth.*" It plucks away a feather from his present pomp, but it offers him a contingent dignity instead. It forbids him to be saluted any longer as "his Honor," but it indemnifies him with a "Hail! King that shalt be!" The improvement may seem to be scarcely worth changing the Constitution for; but there is no harm in it, and it may be agreeable to persons who have the office in contemplation. If it should be thought trifling, it is as innocent trifling as could be wished.

In respect to the position of this officer, there is another change, which also is not indicated by any difference in the type. By the existing Constitution, the Lieutenant-Governor is to perform all the duties of the Governor "whenever *the chair of the Governor shall be vacant*, by reason

of his death, or absence from the Commonwealth, or otherwise." This is definite. The proposed provision is not equally so. It is (Chap. V. Art. 3) that "whenever, by reason of sickness, or absence from the Commonwealth or otherwise, the Governor shall be *unable to perform his official duties*, the Lieutenant-Governor, for the time being, shall have and exercise all the powers and authorities and perform all the duties of Governor." What degree or duration of inability in the Governor, from a headache or a broken right arm to an apoplexy, shall authorize the Lieutenant-Governor to assume his superior's functions? The Governor may be able to do some official things, and not others. He may be able to sign a commission, but not to meet his Council. Who is to be Chief Magistrate then? It is not difficult to imagine cases of possible dispute as to the authority of that signature which binds inferior officers. "Under which King, Bezonian?" John Adams knew better what language was fit to be used for such a case, than the experimenters upon this part of the State Constitution.

The change in the constitution of the Executive Council, making its members to be eight in number instead of nine, and to be eligible by a plurality of votes in single districts, instead of by the Legislature, as heretofore, is in some respects an improvement; though causing, as it will, the party of the Governor's opponents to be represented in his Council (an arrangement certainly not without its benefits), it may sometimes tend to lessen his responsibility, by giving to that body something of the character of an Executive Directory. At all events, it is not an improvement of that urgent importance that it is worth while to obtain it next year at a great sacrifice in other things, instead of obtaining it the year after at no sacrifice at all. We can have it in 1854 by adopting the proposed Constitution, with all its exceptionable features. We can have it in 1855, as an independent measure, by the successive votes of two Legislatures and of the people. As there was next to no opposition to it in the Convention, there appears no reason to apprehend serious opposition to it in any quarter. When all parties are substantially of one consent about a thing, and it may be had for nothing, it cannot be wise to get it at a high price.

There is one proposed change in the Executive department, of far more material importance. Massachusetts has intended to have her laws efficiently and uniformly executed in every part of her territory. And to that end she has taken care herself, by her highest delegated appointing power, her Governor and Executive Council, to appoint her highest Executive officers respectively in all and each of her counties. All this, it is proposed henceforward to do away. The counties are severally to elect their own Sheriffs (Chap. VII. Art. 4), and by that election to determine how much and how little of the law of the Commonwealth shall be executed within their bounds. Dukes County may not like the pilot laws of Massachusetts. Suffolk County may not like the liquor laws of Massachusetts. Of course they choose their Sheriffs, when they get the

power, with a view to nullify those laws in respect to themselves; for when and where the Executive power fails, the law is a dead letter. Massachusetts has now a heavy hand, which on occasion she can make felt in any part of her domain. Make the change proposed, and we disarm her at once in any contumacious county. As the Constitution now stands, if a Sheriff of Suffolk, in supposed deference to a Boston interest, refuses to serve process under any Sims case, or the like, or to make a seizure under the Liquor Law, he stands a chance of being dismissed immediately and finally by the Governor, — the representative, for such purposes, of the State's sovereignty. Make the Sheriff the officer, not of the Commonwealth, but of the county, and it will be the county's will, rather than the Commonwealth's, which he may feel concerned to execute. The population of Boston is not worse than that of other great cities. It is much better than that of most others. But it embraces elements such as cannot prudently be trusted with control over the question, whether or not the laws of Massachusetts shall be faithfully administered and executed within it. To take an illustration from a sister State, what chance of execution would a process for collecting rent have in an *anti-rent* county, with the Constitutional power to choose its Sheriff!

So the efficient execution of the laws depends mainly on the faithfulness of the Prosecuting Officers. If they will, they shut their eyes to crimes and abuses; and those crimes and abuses the law then does not see, and does not punish nor remedy. Under the existing provisions, the Commonwealth, through her Governor and Council, appoints and removes at pleasure the District Attorneys, and thus holds them strictly responsible to herself, for the due execution of the trust. It is proposed henceforward to choose the District Attorneys by vote of the districts respectively in which they are to act (Chap. VII. Art. 4). The district which can choose its prosecuting officer, will have rather more power than is consistent with the general good, to determine what offences and what persons shall be prosecuted within its limits; and men who have sway at nominating conventions may occasionally prove to be invested with too much discretion over the question whether they will themselves be prosecuted or not.

It is no reply to these remarks to say, that by another provision (Chap. XIII. Art. 4, 5) prosecuting officers and sheriffs may be removed or suspended by the Governor, and substitutes appointed. The remedy is not adequate. The substitute on the proposed plan, can only hold office till the next annual election. The county or district then re-elects the faithless officer, or some other person who will equally serve its purposes; and by the time there has been again sufficient malversation, and sufficient proof of it, to justify another Executive interference, great part of another year has gone, carrying with it another long period of hurtful mal-administration. And this is a process to be repeated endlessly, or as long as the spirit of opposition in the county or district holds out.

The offices of Secretary of the Commonwealth, Treasurer, and Auditor are by the new Constitution made elective by the people directly (Chap. VII. Art. 1), instead of, as hitherto, by the people through its Legislature. As a matter of convenience, this may be an improvement; and, if so, the change would be easily made, and probably without opposition, as an independent measure, by the method pointed out by the existing Constitution; though one naturally asks why this rule should not be made to apply to some other State officers as well as to those specified; as, for instance, to the Land officer, or to the Secretary and members of the Board of Education. Even the office of Warden of the State Prison is, I believe, made elective in some States, where it is intended to give to the general State scramble the greatest possible comprehension and activity.

VI.

MISCELLANEOUS.

The question whether more than half the votes given in elections shall be required to fill an office, or whether a mere plurality shall prevail, is one of material importance. The former method is most consistent with the republican theory. It may be reasonably argued that no one should be held to be elected, when there is a larger number of votes against than for him, even though the majority against him should be an aggregate of votes cast for different persons. But, on the other hand, there may at any time be more than two parties, each tenacious of its principles and candidates, and no one of them more numerous than the sum of the rest. In that case, will occur the inconvenience of repeated fruitless trials to elect; offices may remain vacant; and it is even supposable that the government shall be brought to a stand.

This class of considerations has led extensively to the introduction of the *plurality* principle in the elections of other States. Massachusetts has adhered steadfastly to the method of electing by majority. Two years ago, the Legislature enacted that a plurality should choose electors of President and Vice-President and (on the second trial) Representatives in Congress; there being, as to these matters, no provision in the Constitution. But the Constitution and laws, down to this day, recognize no election of State, County, or Town officers, except by a majority of all the votes.

It would seem that, however the Constitution should determine the main question, its arrangement should be uniform and permanent. The existing Constitutional and legal provisions have both these qualities. That of the proposed Constitution has neither. By the proposed provision (Chap. IX. Art. 5, 6, 7), a plurality cannot, until further legislation, elect the Governor nor other executive State officers, Representatives to the General Court, nor Town officers. In other words, in these elections, when there are three powerful parties, there must be a bargain between

two of them to effect a choice. But pluralities are to elect Counsellors, Senators, and County and District officers (Art. 8). The relation of this two-fold arrangement to the existing state of parties in this Commonwealth, and to the compromises which have grown out of that state of things, is apparent. But upon what Constitutional doctrine, or what demand of the public welfare, the distinction is founded, and why the plurality rule has not precisely the same applicability to all cases alike, is not so obvious.

At all events, this might seem certain, that the great question of majority or plurality elections is one to be settled in some way by the Constitution, and not to be left to the caprice and party calculations of successive Legislatures; — a majority system to be enacted by one Legislature, and a plurality system by the next, according as one or the other may be thought best to subserve, for the moment, the purposes of party. But the proposed Constitution expressly provides (Chap. IX. Art. 5, 6, 7), that, in all cases in which majority elections are still retained, it shall be competent to the Legislature to substitute a plurality, and again to go back to a majority vote, at its pleasure. It is true that the provision is, that a law of this description, so far as it relates to State officers, shall not take effect till a year has expired from the time of its enactment. But party calculations are apt to look forward beyond the term of twelve months. And, further, if a law on this subject cannot go into effect till after twelve months, neither can its repeal do so. So that a party in power is able to determine irrevocably, for its own uses, the principles on which the elections for the second following year shall be made. The people may be ever so much disgusted with a wrong that has been done, and may send ever so strong a representation to the General Court the next year to set it right; but to set it right, is no longer in their power. The Constitution precludes them from getting any remedy till after the second year; till after the time has passed to which the corrupt legislation they desire to rebuke and repair was contrived to apply.

The provision respecting *Secret Ballot* (Chap. IX. Art. 2) recognizes a sound principle, and enforces an important practice. The gross abuses which have existed, loudly demand its adoption. It should have been presented as a separate article, so that we could vote for it without at the same time making great sacrifices in other respects. But the Secret Ballot, in precisely the effective form proposed, is within our reach by mere Legislative enactment. Its reasonableness and popularity are such that it must presently be re-enacted, whatever party is in power; and, when re-enacted, will stand firm. The Whigs, it is true, repealed it last winter; but they have been sitting on the stool of repentance ever since. Nothing did more than their foolish stand on that question, to throw them into the miserable minority in which they appeared in the Convention. They will not try it again. They will have to yield the Secret Ballot by law, Constitution or no Constitution.

The obligation of the General Court to receive pay *for one hundred days only* (Chap. I. Art. 3) is interpreted as a virtual prohibition to sit longer. In that view, it might be good, if accompanied by a provision that no more business should ever come before the Legislature than would be well and carefully done in that time. Some years ago, on account of some alleged bequests to public charities, supposed to have been wheedled out of legatees in the weakness of their last hours, there was a proposition in the Legislature that no will should be admitted to Probate, if made within six months of the testator's death. An amendment was moved of an additional clause, providing that no man should die till six months after making his will; upon which the measure subsided. If the business is left unfinished at the end of a hundred days, and the Governor has to call an extra session to complete it, with the cost of extra travel added to pay, there will be little money saved. This case has actually occurred during the present year in New York, under a Constitutional provision similar to that now proposed to be introduced among us.

If a limitation of the Legislature to sessions of a hundred days be a good object, why not so provide in direct language? It would be the better and safer way. Who knows that the stoppage of pay would in every case send the Legislature home? Suppose a different state of things. Suppose, as the end of the hundred days approaches, a measure to be pending involving large pecuniary interests. The Senate and House cannot agree about adjourning. Some members hostile to the measure, but not able to work for nothing and find themselves, ask leave of absence, and easily get it. Others, favorable to it, are able, at their own expense, or at the expense of somebody behind the scene, to hold out and legislate some days longer. I can easily imagine cases in which I should not think it for my advantage to have my Representative starved away from his post.

As to the *Militia*, the subordination of the military to the civil authority has always been held to be a necessity of our institutions. It stands prominent in the Bill of Rights (Art. 17). One way which our ancestors took to secure it, was by giving the appointment of the Major-Generals to the people assembled in their Legislature. It is now proposed to expunge this feature of the militia organization, and to have an armed force wholly officered by itself, with the exception of the Commander-in-Chief (Chap. XI. Art. 5). On the other hand, soldierly honor is delicate, and some rather strong experiments upon it are projected. Henceforward an officer is, every three years, to have the continuance of his commission subject to the vote of the inferior officers or the privates of his command (Art. 11). It may be that offices in the militia, on these terms, may continue to be attractive to men of character; but I should not like to guaranty it. Suppose a company to be in actual service at the time when the captain's commission is about to expire by limitation; he will be under the command of his men, instead of their being under his; and so

of the commanders of regiments, brigades, and divisions, who are to have respectively inferior officers for their constituents. The judicious arrangements of an expedition or a campaign may be all frustrated by the advancement, at the critical moment, of a new man over the head of their projector. And, when an ambitious subordinate may intrigue with his command to supplant his superior, does it not follow that the arm of military discipline will be very essentially crippled?

There is another change in the Constitutional provisions relating to the militia, of greater importance. The Constitution, as it has stood from 1780 to 1853, after making the Governor Commander-in-Chief "of all the military forces of the State, by sea and land," goes on to provide that he shall never "transport any of the inhabitants of this Commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the General Court." The idea of those who framed this prohibition was, that, when soldiers should be wanted for foreign wars, they could be hired, and that the citizen was not to be forced away from his home on such service; that conscriptions, the odious resort of military tyrannies, should not be permitted here. It is now proposed to do away with this restriction, and to impose no limit to the Governor's power over the militia, except as implied in this, that the authority expressly given him goes no further than "to call out any part of the military force to aid in the execution of the laws, to suppress insurrection, and to repel invasion." "To suppress insurrection." Where? In Florida? "To repel invasion." Where? In California? "To aid in the execution of the laws." Where? At Trieste and Venice, when we have quarrelled with Austria? For undoubtedly a Declaration of War is a "law." The Constitution of the United States confers on Congress power over the militia in these terms; but it is in no such breadth of meaning, nor does either that instrument, or the Constitution of Massachusetts hitherto, confer it on the Governor. The proposed alteration may be interpreted so as to invest that magistrate with a terrible power. When the time shall come that a reckless partisan Governor, ambitious of a "national" name and promotion, shall "call out" some Massachusetts regiments, under the penalties of martial law, for an expedition to Nicaragua, the Sandwich Islands, or Japan, we may wish, when it is too late, that we had the old Constitutional security for ourselves and our children. In all times, the power to compel the service of the subject in distant wars has been held to be one of the most intolerable attributes of despotism.

The proposed provision (Chap. XII. Art. 1) which authorizes the Legislature "to grant any further powers to the President and Fellows of *Harvard College*, or to alter, limit, annul, or restrain any of the powers now vested in them, provided the obligation of contracts shall not be impaired," appears to have encountered little opposition, as indeed might have been expected; for it is merely sounding words. It makes no change in the condition or liabilities of that institution. Corporations have no

existence and no rights, but what are given by their charter. Except so far as that protects them, they are wholly at the Legislature's mercy. The Constitution of the United States — the supreme law of the land — secures the inviolability of contracts. If the charter of Harvard College is not a contract, then the State Government may now do with Harvard College whatever in its wisdom and justice and mercy, or whatever in temporary injustice and folly, it will. If that charter is a contract, then any act of the Legislature infringing it, is null; it has no validity in law; it is not worth the parchment it is written on. The relations of the Legislature and Harvard College will be not a jot or tittle different, whether the proposed provision in respect to them is sanctioned or set aside.

The revised Constitution proposes (Chap. XII. Art. 3) to repeal the legislation of the last forty or fifty years in respect to the Board of Overseers of the College, and re-instate that Board as it was established by the Constitution of 1780; viz. so as to have it consist of the Governor, Lieutenant-Governor, Council, and Senate, the President of the College, and the Congregational ministers of Boston, Cambridge, Watertown, Charlestown, Roxbury, and Dorchester. In the result of previous legislation in 1810 and 1812, an act was passed by the General Court in 1814, providing that, with the consent of the Corporation and Overseers (which was subsequently given), the Speaker of the House, and fifteen ministers of Congregational churches with fifteen laymen, to be elected by the Overseers as vacancies should occur, should be substituted in the Board for the Congregational ministers of the six neighboring towns. In 1834, with the same consent of the Corporation and Overseers (made a condition by the Act), the Overseers were empowered to choose clerical members of their body, being ministers of other than Congregational churches. In 1851, the Act was passed, now in force, which, with the same consent, constituted the Board of five high officers of the Commonwealth, the President and Treasurer of the College, and thirty persons to be chosen from time to time by joint ballot of the Legislature. The Board thus formed, the proposed Constitution, copying the article of the Constitution of 1780, now proposes to dissolve, — to displace all the recently and previously elected members, consisting of different religious denominations, and seat in their places, among others, the Congregational ministers of Boston and the vicinity; these Congregational ministers being in number some sixty or seventy, a clear majority of the whole Board.

As far as I have looked into the debates of the Convention, I find no light on the history of this proceeding. Did the Convention — for reasons unexplained, and not to be guessed at — actually decide to re-affirm the original provision of 1780, over-riding and annulling all subsequent legislation on the subject? Or is it possible, on the other hand, that here is a mistake in the Convention's declaration to the people, of its own doings? Who is authorized to say this? Here is the formal document in our hands, signed by the President of the Convention, and

countersigned by its Secretaries. So far as the public knows, there is nothing behind this document — no engrossed instrument — for us to appeal to, as more authentic and certain evidence of what the Convention actually proposes for our votes; and, even if there be any thing of that kind, this pamphlet is what is laid by the Convention before the people, for them to vote upon. This part of the revised Constitution is known, by all the proof by which any other part is known, to have been approved, and presented for ratification, by the action of that body. If this part of the revised instrument does not truly represent the will of the Convention, how do we know that any other part does? Where is our proof, that, in casting our affirmative vote, we shall really confirm what the Convention designed?

At all events, if we vote for this project of a Constitution, one thing, among others, which we aid in doing, is this: we re-create the old Board of Overseers of Harvard College, with all its circumstances so little in harmony with the views of the present day. We turn out Episcopalians, Baptists, Universalists, and Methodists, — laymen and ministers, — and put in their places a large number of Congregational clergymen. If this provision, included in and inseparable from the new Constitution, takes effect, then the Board of Overseers will be constituted agreeably to it, after the first Monday of next February (Chap. XIII. Art. 7). Is it said that subsequent legislation may correct the blunder (if blunder it be), and restore the present organization? But it may be presumed, that subsequent legislation will resemble previous legislation, in making its provisions contingent on the consent of the Overseers. If so, what Overseers will be competent to give that consent? The proposed Constitution, if it prevails, assumes to supersede and displace the present Board. If its provision is ratified and is valid, there will be no Board after February, except that after the pattern of former centuries; and whether the sixty or more Congregational ministers will consent voluntarily to abdicate the trust thus unexpectedly thrust upon them, is what no one can pretend certainly to kow.

However these matters may be viewed, they do not tend to heighten our confidence in the careful deliberation and exactness with which our business was done in the Convention. They rather go to create a suspicion, that in other particulars, where the lapse is less obvious, the Convention may not have proceeded with that circumspection which the transaction of such great affairs demand.

Chap. IX. Art. 8 is mere *surplusage*. It simply repeats Chap. II. Art. 3; Chap. VI. Art. 4; and Chap. VII. Art. 4. It stands, however, as another evidence of the haste with which the instrument was digested. So in Chap. V. Art. 1, a paragraph is designated by the change of type as not among "existing provisions of the Constitution," when, in fact, it does make a part of that instrument, by the tenth amendment, adopted in 1831.

The provision (Chap. XII. Art. 4) "for the enlargement of the *School Fund* of the Commonwealth, until it shall amount to a sum not less than two millions of dollars," is a good one. The money could be well used in that way. But there is no occasion to disturb the Constitution for it. A common legislative act will answer all the purpose; and that there will be no opposition to such an act, whatever party is in power, is proved by the fact that in the Convention the vote for the proposition was unanimous. The present fund was established, not by Constitutional provision, but by common legislation. The Statute of 1834 (Chap. 169) appropriated a million of dollars for the purpose. The Statute of 1851 (Chap. 112) added half a million. A Statute of 1854 may add another half million (which all parties are agreed to), and the work of this part of the proposed Constitution is done.

The Fourteenth Chapter contains certain provisions in respect to *Future Amendments* of the Constitution.

In the first place, specific and particular amendments may be made by certain action of two successive Legislatures, sanctioned by a subsequent popular vote (Chap. XIV. Art. 3). Here the existing Constitutional provision to this effect, is incorporated into the new Constitution. There is no change.

Another Article (2) recognizes "the power of the Legislature to take action for calling a Convention," "as heretofore practised in this Commonwealth." This (which comes in in a *proviso*) may be thought superfluous, as the practice has sufficiently established the right, which indeed did not need practice to establish it; and if, in a hot party discussion, it has been professedly called in question within the last two or three years, the fact that, after all the objection made, the practice has been followed up in yet another instance, establishes it on a firmer basis than before. The party which recently opposed it, and denied its legitimacy, has given in. At its more recent State Convention, it declared itself in favor of certain Constitutional amendments, "to be obtained, if possible, through the action of the Legislature; and, failing thereby, *a new popular Convention*, based upon an equality of representation.

These two methods of obtaining Constitutional amendments, which from time to time may be desired, are already in force. Are they sufficient? Because, if so, it is not worth while to provide for keeping the question of Constitutional amendments perpetually in the field, as a football for parties. A Constitution of government is supposed to have a degree of stability and permanency. We expect to make it productive of a maximum of public good by wise applications of it, not by frequent revisals and alterations, involving critical experiments. One interest may perhaps profit by it peculiarly at one time, and another at another. But we do not expect to be taking it to pieces on every momentary dissatisfaction, to adjust its machinery to the interests, passions, or fancies of the hour. It is not worth while to encourage ourselves or others, on every passing

occasion of disappointment or defeat, to go to work on a reconstruction of the whole frame of government. That was the way they did in the Italian republics of the Middle Age, till the people were always making Constitutions, instead of making and enjoying laws; and a man needed to have a quick memory to tell what government he lived under, this year, and could have merely a guess as to what government he would be living under, the next. Florence, before her frolics of this kind were brought to an end by the Grand Ducal despotism, had at one time, if I remember aright, five Constitutions in ten years. It was not the way to a quiet life.

There is some danger, that, should the fundamental law hold out a formal invitation to frequent and easy revolutions, it will be too readily thought, whenever any thing goes wrong, that a flaw in the Constitution is the cause; from which it may probably follow, that, in patching one upposed breach, another will be made, and so on; the process being attended at every step with much exasperation, anxiety, and discontent. As with violent, so with peaceable revolutions: there is no good done, but some harm, by anticipating occasions for them. When the necessity comes, it will manifest itself, and take care of itself. And, as often as Constitutional amendments in Massachusetts are necessary, the methods already in use for obtaining them seem abundantly sufficient for the need.

But the framers of the proposed Constitution view these things differently. Their treatment supposes an incurable chronic distemper of the body politic, requiring attention to be turned periodically to the application of pharmacy. Once in every twenty years, the people must, per force, sit in judgment on their Constitution (Chap. XIV. Art. 1). The child now ten years old, if he survives threescore and ten, must four times, since he was of an age to know what government means, have witnessed long and sharp agitations of the most momentous questions a community can entertain.

But even this does not satisfy our Constitution-makers. It is not enough for them to have the question perpetually pending a quarter of the time (for five years in every twenty are little enough to allow, from the opening to the closing of the argument): they have made arrangements for throwing it in, every year, among the elements of partisan strife and intrigue. That is to say, they have provided (Chap. XIV. Art. 2), that, "whenever towns or cities containing not less than one-third of the qualified voters of the Commonwealth" shall, at the Autumn election, request the Legislature to take the sense of the people on the calling of a Convention to revise the Constitution, it shall be the duty of the Legislature to bring the people to that vote. There may be no occasion whatever for the step. There may be no decent pretence of occasion for it. The people, if called to vote, may vote it down by vast majorities. The less than fifth part of the voters of the Commonwealth necessary to bring the people to that vote (for less than a fifth part may be so distributed

as to give lean majorities in "towns or cities containing not less than one-third of the qualified voters"), may not be forthcoming, nor one-tenth of that small fraction. But how often will it happen, that a faint prospect of gaining a sufficient number of the people to the movement, will be motive enough with unquiet spirits, to prompt them to make the attempt? And how often will the suggestion of such an agitation, thrown in as a make-weight with other matters, be an instrument in the hands of crafty party-managers in getting what they may choose to claim? How often, under this invitation, which the proposed Constitution throws out, will the promise or the threat of attempting to work up the requisite fragment of the people to such action, be an element in the annual electioneering? Will it be every year, or every other year, or one year in three? And will our government be the safer, or, if not required by the safety of our government, will our party divisions be less irritating, and our lives more comfortable, for this new invitation to party-turbulence and chicane, which it is proposed annually henceforward to extend? Should we not invite by this provision some uncompensated annoyances of a perpetual state of revolution?

CONCLUSION.

In the foregoing pages, I have set down some of the reasons which compel me to vote NO on the first of the questions presented to the people by the recent Convention,—the question relating to that part of the revised Constitution, which embraces the Frame of Government for the Commonwealth. In my view, some of the innovations which it proposes — and, among them, some of the most important — are entirely unsustained by good reasons, and can only be fruitful of evil; while, of the really beneficial changes which it offers, there is not one which cannot be obtained, or which would not probably be obtained, with a very little delay, through simple Legislative action, or through the method of amendment provided by the existing Constitution. Under these circumstances, I cannot think I should be acting the part of a man of common sense, to make any considerable sacrifice of other just Constitutional principles and provisions for their attainment; — certainly not to buy them at the cost of such mischievous provisions as those of the new Constitution relating to the Judiciary and the basis of representation.

The provisions of the existing Constitution, in respect to the House of Representatives, are far from good; but that is no reason why we should supersede them by others more subject than themselves to the same class of objections, — more unjust, and, what is worse, increasingly more unjust from census to census. If we are not at present prepared to apply a full remedy to the evil, let us not, in blind impatience, extend and aggravate it. And, meanwhile, it is by no means beyond reasonable expectation, that as, from time to time, by the operation of the existing Constitution,

more and more of the small towns exchange their annual representation for representation only a part of the time (which is the great evil complained of), that provision of the Constitution will work its way into extensive use, which authorizes them to associate together for annual representation, — thus approximating a universal district system.

I have surveyed the subject from the point of view of one opposed, in all political action, to the Slave Power which governs this country. I am a member of that party (of whomsoever composed) which aims, under the Federal Constitution, to nationalize and fortify liberty, to localize and discourage slavery. But I cannot undertake to act on all other questions with this or that man who sympathizes with me on this question. In my belief, history will presently be saying, that the course of Massachusetts Whigs, in these last years, has been one of extreme folly, interspersed with complicity in some great national crimes. But I am not going to take part in bringing discredit on our excellent Massachusetts, and trouble on my fellow-citizens and my posterity, for the sake of punishing the sins of the Whigs. When I attached myself to the Free Soil party, I came under no engagement in respect to changes in the Constitution of this Commonwealth. If my memory serves me, the State Committee of that party, in their address published early in this year, declared that this question of Constitutional amendments was not a party question. At all events, with or without the leave of that Committee, such is my opinion. It is, or should be, a question quite aside from party; rather, a question altogether above it. And so far as the Free Soil party should be connected with the support of some of the specific amendments now proposed, the party would, I think, be injured by that connection, and its great objects be prejudiced and obstructed.

While I have spoken freely of the proposed experiments upon the Great Charter of our Massachusetts liberties, it must be superfluous to say that it has been without the slightest intimation of want of respect for any to whom these experiments appear in a different light. In the majority of the Convention were men eminently virtuous, disinterested, and patriotic. I would not say that a man of that majority was wanting in those qualities. But that is not the question which we are presently to vote upon. The question is, whether the great changes proposed will conduce to the honor and prosperity of Massachusetts, to the safety, welfare, and satisfaction of ourselves and our children.

THE END.